

Assembly Bill No. 1452

CHAPTER 59

An act to amend Section 44939.5 of the Education Code, relating to certificated employees.

[Approved by Governor July 6, 2015. Filed with Secretary
of State July 6, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1452, Hadley. Certificated employees: personnel files: expungement: egregious misconduct.

Existing law prohibits a permanent school employee from being dismissed, except for one or more of certain enumerated causes, including egregious misconduct, as defined. Existing law prohibits school districts, county offices of education, and charter schools from entering into an agreement that would authorize expunging from a school employee's personnel file credible complaints of, substantiated investigations into, or discipline for, egregious misconduct, unless the documents contain allegations that have been the subject of a hearing before an arbitrator, school board, personnel commission, Commission on Professional Competence, or administrative law judge, in which the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted.

This bill would also prohibit school districts, county offices of education, and charter schools from directly expunging from an employee's personnel file credible complaints of, substantiated investigations into, or discipline for, egregious misconduct, unless documents containing allegations that have been the subject of a hearing before an arbitrator, school board, personnel commission, Commission on Professional Competence, or administrative law judge, in which the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted.

The people of the State of California do enact as follows:

SECTION 1. Section 44939.5 of the Education Code is amended to read:
44939.5. (a) School districts, county offices of education, and charter schools shall not enter into an agreement that would prevent a mandatory report of egregious misconduct, as defined in paragraph (1) of subdivision (a) of Section 44932, to the Commission on Teacher Credentialing or any other state or federal agency.

(b) School districts, county offices of education, and charter schools shall not expunge from an employee's personnel file, nor shall they enter into an agreement that would authorize expunging from an employee's personnel file, credible complaints of, substantiated investigations into, or discipline for, egregious misconduct, as defined in paragraph (1) of subdivision (a) of Section 44932. This prohibition does not preclude removing, or entering into any agreement to remove, documents containing allegations that have been the subject of a hearing before an arbitrator, school board, personnel commission, Commission on Professional Competence, or administrative law judge, in which the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted.

(c) A school district, county office of education, or charter school that has made a report of an employee's egregious misconduct to the Commission on Teacher Credentialing shall disclose this fact to a school district, county office of education, or charter school considering an application for employment from the employee, upon inquiry.

(d) Any school employee who alleges that another school employee has engaged in egregious misconduct, as defined in paragraph (1) of subdivision (a) of Section 44932, knowing at the time of making the allegation that the allegation was false, shall be subject to certificate revocation, if applicable.